MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN THE MATTER OF THE APPLICATION OF SPIRE MISSOURI, INC. TO CHANGE ITS INFRASTRUCTURE SYSTEM REPLACEMENT SURCHARGE IN ITS SPIRE MISSOURI EAST SERVICE TERRITORY; IN THE MATTER OF THE APPLICATION OF SPIRE MISSOURI, INC. TO CHANGE ITS INFRASTRUCTURE SYSTEM REPLACEMENT SURCHARGE IN ITS SPIRE MISSOURI WEST SERVICE TERRITORY, **RESPONDENT,**

PUBLIC SERVICE COMMISSION, **RESPONDENT,**

v.

OFFICE OF PUBLIC COUNSEL, **APPELLANT.**

DOCKET NUMBER WD83475 Consolidated with WD83476 and WD83477

DATE: October 20, 2020

Appeal From:

Public Service Commission

Appellate Judges:

Division Four: Cynthia L. Martin, Chief Judge, Presiding, Gary D. Witt, Judge and Anthony Rex Gabbert, Judge

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Attorneys:

Rick D. Zucker and Michael C. Pendergast, St. Charles, MO, for respondent Spire;
John J. Rehmann, II, St. Louis, MO, co-counsel for respondent Spire.

John A. Clizer and Marc D. Poston, Jefferson City, MO, for appellant Office of Public Counsel.

Jennifer L. Heintz, Jefferson City, MO, for respondent Public Service Commission.

MISSOURI APPELLATE COURT OPINION SUMMARY

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IN THE MATTER OF THE APPLICATION OF SPIRE MISSOURI, INC. TO CHANGE ITS INFRASTRUCTURE SYSTEM REPLACEMENT SURCHARGE IN ITS SPIRE MISSOURI EAST SERVICE TERRITORY; IN THE MATTER OF THE APPLICATION OF SPIRE MISSOURI, INC. TO CHANGE ITS INFRASTRUCTURE SYSTEM REPLACEMENT SURCHARGE IN ITS SPIRE MISSOURI WEST SERVICE TERRITORY, RESPONDENT,

PUBLIC SERVICE COMMISSION, RESPONDENT,

v.

OFFICE OF PUBLIC COUNSEL, APPELLANT.

WD83475 (Consolidated with WD83476 and WD83477) Public Service Commission

Before Division Four Judges: Cynthia L. Martin, Chief Judge, Presiding, Gary D. Witt, Judge, and Anthony Rex Gabbert, Judge

The Office of Public Counsel appeals from the Public Service Commission's October 30, 2019 report and order addressing Spire Missouri Inc.'s applications to change its infrastructure system replacement surcharge in Spire's East and West service territories to include costs incurred from October 1, 2017, through June 30, 2018, and costs incurred from February 1, 2019, through July 31, 2019. Public Counsel's appeal challenges the Commission's decision to include the costs associated with the replacement of the cast iron and steel mains and service lines in the calculation of the awarded ISRS.

AFFIRMED.

Division Four holds:

(1) Substantial and competent evidence supports the conclusion that replacement of Spire's cathodically protected steel mains was mandated by section 393.130, RSMo, 20 CSR 4240-40.030(13)(B), and 20 CSR 4240-40.030(17), as that statute and those regulations, when taken together, mandate a gas utility to proactively maintain a safe distribution system for natural gas.

(2) Spire presented evidence from which the Commission could reasonably conclude that the cast iron and steel mains and service lines replaced were in a worn out or deteriorated condition.

(3) The Commission did not grant Spire an unlawful presumption of deterioration, and instead relied on evidence it deemed credible that replaced cast iron and steel pipe was worn out or in a deteriorated condition.

Opinion by: Cynthia L. Martin, Judge October 20, 2020

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